IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.587 OF 2003

IN

SUMM. SUIT NO.1339 OF 2003

Mr.Madhusudan (Madhu) Sharma .. Plaintiff

versus

1. M/s Abishek Marble & anr .. Defendants

...

Mr.P.P.Parkar for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 14th March 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None for the defendants though served. Perused the affidavit of service filed by the plaintiff. Despite service, the defendant has not applied for leave to defend nor filed any affidavit in reply. In the circumstances, the plaintiff is entitled to a decree under order 37 Rule 3 (6) of the Code of Civil Procedure.

2. Learned counsel for the plaintiff hands in the

original documents under a list. The documents are taken on record and collectively marked ExhibitA.

3. I have perused the plaint and the documents filed on record. The defendant no.2 is a proprietor of defendant no.1. The plaintiff advanced a loan of Rs.1,00,000/- to the defendants. The defendant no.2 executed a promissory note on 8th June, 2002 agreeing to pay on demand sum of Rs.1,00,000/-. However, he failed and neglected to make the payment when demanded. The plaintiff issued a notice. The defendants failed and neglected to comply it. Hence, this suit.

4. As the defendants have not filed any affidavit in reply, claim made in the plaint are deemed to be admitted. Hence, Summons for Judgment is made absolute and suit of the plaintiff is decreed as follows:

> " The defendants shall pay to the plaintiff a sum of Rs.1,13,500/- together with interst on the principal sum of Rs.1,00,000/- at 9 % p.a. from the date of the suit till payment and all costs of the suit. "

D.G.KARNIK, J